HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 1232 (S/S) of year 2003

Bipin Chandra Joshi

Vs.

State of Uttaranchal and others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 15.10.2003

Initial of Judge

In the High Court of Uttaranchal at Nainital

Court No.6

Writ Petition No. 1232 of 2003 (S/S)

Bipin Chandra Joshi ……Petitioner

Versus

1. State of Uttaranchal
2. Director, Secondary Education,
   Directorate of Education
   Dehradun
3. Financial Controller,
   Directorate of Education
   Dehradun
4. Finance & Account Officer,
   Dept. of Secondary Education
   Mallital, Nainital ……..Respondents

Date of Judgment	**:-**	**15.10.2003**
Counsel for the Petitioner	**:-**	**Dr. Udyog Shukla &**
		Sri K. Shukla
Counsel for the Respondent	**:-**	**Sri Maulkhi &**
		Ms. Farida Siddqui
		Standing Counsel

Hon'ble Rajesh Tandon, J.

Heard Dr. Udyog Shukal & K. Shukla, learned counsels for the petitioner and learned Sri Maulkhi & Ms. Parida Siddqui, Standing Counsel.

By the present Writ Petition, the petitioner has prayed for issuance of a writ order or direction in the nature of mandamus commanding the respondents to direct the respondents to remove the anomalies that has crept up in the fixation of the pay scale of the petitioner after the applicability of the Central Fifth Pay Commission. The petitioner, therefore, has prayed that his pay may be re-fixed in accordance with the Fifth Pay Commission w.e.f. 1.1.1996.

Brief facts giving rise to the present petition, the petitioner was appointed on the Adhoc (Mathematics / Science) teacher LT grade on 15.2.1971, after getting selection from the Public Service Commission (P.S.C.) on the same post on 28.5.1977, after promotion on 20.12.1977 the petitioner joined as Lecturer (Mathematics) on 18.1.1978. Presently, the petitioner is working as Lecturer of Mathematics, Government Inter College, Banna (Nainital), District Nainital. From 1.1.1988 the petitioner is getting selection grade pay in the scale of Rs. 2000-3200/- which has been revised from 1.1.1996 in the pay scale of Rs. 6,500-10,500/-.

According to the revised pay scale as on 1.1.1996 (Fifth Pay Commission), the basic salary of the petitioner was fixed Rs. 7,700/- excluding D.A. and other allowances.

According to the petitioner, the Fifth Pay Commission came into force on 1.1.1996 and in accordance to the recommendations the petitioner was placed in the grade of Rs. 7,500-250-12,000/-.

The petitioner has made a representation on 13.11.2002 at Annexure-2 claiming the benefits of the Fifth Pay Commission. On the representation of the petitioner on 7.5.2003 the order was passed by the Financial & Lekha Adhikari to the effect that in accordance with the Fifth Pay Commission, the pay scale of the petitioner may be re-fixed to the extent of Rs. 7700/-. The letter dated 7.5.2003 provides as under:

> ''1–7–2001 को लागू पंचम केन्द्रीय वेतनमान वे0क्र07500–250–12000 में इनका वेतन निर्धारण 7500/– 200 वै0वै0 पर 1–1–96 को निर्धारित हो रहा हैं।
> अतः इन्हें पूर्व में प्राप्त चयन वेतनमान के आधार पर वित्तीय हानि हो रही है। अतः अनुरोध है कि इस विसंगति के निराकरण हेतु आवष्यक निर्देष करने की कृपा करें।

Even after the recommendation made by the Finance and Lekha Adhikari, the petitioner is not getting the benefit of the Fifth Pay Commission.

The petitioner has further made a representation that the pay scale has been fixed on 7700/- as on 1.1.1996 and according to the Fifth Pay Commission the petitioner is entitled for the grade of 7,500 – 12,000/- till today the benefit of the Fifth Pay Commission has not been afforded to the petitioner.

There is no reason why the respondents should not adhere to the emoluments which are payable to the petitioner on account of the Fifth Pay commission. The petitioner therefore, will file a fresh representation to the respondent for availing the benefits available to him as per the Fifth Pay Commission in accordance with the recommendation dated 7.5.2003.

If such representation is filed the respondent will decide the same within three weeks from the date of the certified copy along with the representation filed by the petitioner. If the authorities concerned will come to the conclusion that the petitioner is entitled for the benefit of the Fifth Pay Commission, the same shall be given to the petitioner forthwith within a period of three weeks thereafter.

With these observations, the Writ Petition is finally disposed of. There will be no order as to costs.

(Rajesh Tandon J.)

Dated: 15.10.2003
Rawat